BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission Investigation into the Allocation of Abbreviated Dialing Arrangements, Such as N-1-1.	)))	Case No. 93-1799-TP-COI

ENTRY ON REHEARING

The Commission finds:

(1) On June 21, 2001, the Commission issued a finding and order (the Order) in this matter by which we, among other things, assigned the 2-1-1 abbreviated dialing code to information and referral service providers within the state of Ohio and designated the Ohio Council of Information and Referral Providers (OCIRP) and the 2-1-1 Ohio Collaborative (2-1-1 Ohio) (collectively OCIRP/ 2-1-1 Ohio) as the statewide joint 2-1-1 implementation coordinator for the purpose of establishing 2-1-1 call centers throughout Ohio.

(2) Section 4903.10, Revised Code, provides that within 30 days after the entry of the order upon the Commission's journal, any party who has entered an appearance in a proceeding may apply for rehearing with respect to any matters determined in said proceeding.

(3) Applications for rehearing of the June 21, 2001, Finding and Order, were timely filed on July 23, 2001, by Time Warner Telecom of Ohio, L.P., Allegiance Telecomm of Ohio, Inc., and KMC Telecom, Inc. (collectively, the joint CLECs) and by AT&T Wireless Service PCS, LLC (AWS).

(4) Pursuant to Rule 4901-1-35, Ohio Administrative Code (O.A.C.), memoranda contra the joint CLECs' rehearing application were timely filed, on August 1, 2001, jointly by United Telephone Company of Ohio d/b/a Sprint and Sprint Communications Company L.P. (Sprint) and on August 2, 2001, by Ameritech Ohio, Inc. (Ameritech) and Verizon North, Inc. (Verizon). A

memorandum contra AWS' rehearing application was timely filed on August 2, 2001, by OCIRP/2-1-1 Ohio.

(5) On August 21, 2001, an entry was issued that granted the applications for rehearing filed on July 23, 2001, but only for the limited purpose of allowing the Commission additional time to consider the issues raised on rehearing.

(6) The joint CLECs submit that rehearing should be granted for the purpose of clarifying the process by which competitive local exchange carriers (CLEC) will receive notice that a 2-1-1 call center will become or has become operational, thus enabling CLECs serving such call centers to appropriately route 2-1-1 calls in a timely manner. The joint CLECs note that the issue of whether and how CLECs should receive such notice was not addressed by the Commission within the Order. They explain that, without such notice, it is highly unlikely that CLECs will be prepared to correctly route 2-1-1 calls at the onset of a call center's operations. The joint CLECs propose that the Commission should designate the local exchange carrier serving the 2-1-1 call center as the party responsible for providing notice to CLECs in its serving area that a 2-1-1 call center is about to become operational and "provide appropriate rate center, NPA-NXX details which will enable CLECs to program their switches correctly." They further propose that the Commission should require such notice within a timeframe that allows CLECs at least a 45-day lead time for implementing a specific dialing arrangement (Joint CLECs' Application for Rehearing at 2).

(7) Ameritech submits that the issue of notice to other carriers by the carrier serving the 2-1-1 call center "should not be addressed in isolation and should not be decided solely on the basis of the joint CLECs' claims" (Ameritech Memo Contra at 2). Ameritech says it agrees that carrier to carrier notification issues need to be addressed , but it disagrees that they should be addressed "here and now" by the Commission, since there has been no showing made "that the industry participants cannot or will not address such issues on their own" (*Id.*). It may be, admits Ameritech, that the carrier serving the 2-1-1 call center is the appropriate entity to provide notice to other carriers to facilitate their routing of 2-1-1 calls. However, Ameritech submits "that the industry participants are in a better position to address this issue, and all other

technical and administrative issues involved in the provision of 2-1-1 service. Thus, says Ameritech, the Commission should not adopt the policy requested by the joint CLECs" (Ameritech Memo Contra at 2, 3).

(8) Sprint's and Verizon's arguments in opposition to the joint CLECs' rehearing application differ only slightly from one another. Sprint and Verizon both emphasize that, under the Order, it is the responsibility of the approved call center to make application to the serving telephone companies for 2-1-1 service. Thus, says Verizon, both incumbent local exchange carriers (ILEC) and competitive local service providers alike (i.e., ILECs and CLECs) will receive a service request from the approved 2-1-1 call centers to route 2-1-1 calls to the number they designate to receive 2-1-1 traffic.[1] Verizon claims that such service orders, when they are submitted, constitute proper notice for all affected ILECs and CLECs so that they can respond appropriately and begin routing 2-1-1 traffic on a mutual negotiated date.[2] Verizon submits that there is "no need for a local ILEC to reinforce this process with a separate notice to CLECs in the community."

(9) In its memorandum contra, Sprint says it "strongly objects" to the joint CLECs' rehearing request, and expressed the view that the responsibility for notifying all carriers about the opening of a call center should not be on the local service provider, but rather on the party requesting the 2-1-1 service. Sprint submits that if a call center wants to accept calls from all customers in a given 2-1-1 service area (e.g., a county), application would need to be made to each local service provider serving that area and, thereupon, the local service provider to whom application was made "must perform translations work to ensure that the calls are routed correctly" (Sprint Memorandum Contra at 1). Sprint believes that to make the serving local service provider, rather than the approved call center, responsible for notifying its competitors in the area "would be tantamount to making the notifying LEC (rather than the approved call center) responsible for the charges

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1 We note that Verizon simply assumes that the local call center will know of all local service providers in the designated 2-1-1 service area.

2 We note that Verizon does not explain how an application for service made by the local call center with any particular local service provider will constitute notice to all other local service providers in the area that they, too, should begin to routing 2-1-1 traffic.

incurred by the other LEC in provisioning the service." This is clearly not what the Commission had in mind, says Sprint, when, at Finding (22) of the Order, it directed all local service providers to file proposed 2-1-1 tariffs.[3] Sprint urges the Commission to reject the joint CLECs' application for rehearing and instead clarify that each approved call center is responsible both for paying for and ordering 2-1-1 service from all local service providers from which it wants to receive calls (Sprint's Memorandum Contra at 1, 2).

(10) Upon consideration of these various arguments on rehearing, the Commission finds that the joint CLECs' application for rehearing should be denied. In our view, the joint CLEC's have not established good cause for requiring a local exchange carrier, when embarking on the provision of 2-1-1 service to an authorized call center within a given county, to notify any (or all) CLECs serving that county with information "that a 2-1-1 call center is about to become operational" or with such other information (e.g., "appropriate rate center and NPA-NXX details") as may be necessary in order for those other local exchange carriers (LEC) to "be prepared to correctly route 2-1-1 calls at the outset of the operation of the call center" (Joint CLEC's Application for Rehearing at 2). There is no showing that providing such notification would alleviate the need for the call center to establish, on a company-by-company basis, individual service arrangements with each particular LEC that has customers in the call center's service area. Each LEC's only obligation is to establish a 2-1-1 service arrangement with the 2-1-1 call center that approaches it for service, based on the information provided to it by the 2-1-1 call center it should have no regulatory obligation to pass along to other LECs the information supplied to it by the call center.[4] Rather, it is our intention that the call center should, exercising its own discretion, undertake to become a 2-1-1 service applicant of any particular LEC only when and if the call center chooses to undertake a business relationship with that LEC, as necessary to deploy 2-1-1 dialing capability to that LECs' customers.

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3 Sprint notes that its "model" tariff, while not "finalized as of the time of its August 1, 2001 filing in this case, contains language that requires the approved call center to make all necessary arrangements with other service providers in any exchange.

4 Certainly, LECs are not precluded from entering into contractual obligations among themselves to exchange such information.

(11) AWS's rehearing application is addressed to an entirely separate issue. AWS is seeking rehearing as regards the applicability of the 2-1-1 implementation requirements for commercial mobile radio service (CMRS) providers. AWS maintains that implementation of 2-1-1 on a county-by-county basis, as required under the Order, poses technical and operational issues for CMRS carriers that are not faced by wireline providers. In explaining these technical and operational issues, AWS begins by noting that CMRS networks, by design, use relatively few switches that cover large metropolitan areas and encompass many different local jurisdictions and even different states. Thus, a single cell site may cover multiple counties. To translate and route 2-1-1 calls on a county-by-county basis would require wireless carriers, such a AWS, to route a number based on the caller's precise location which, in turn, would require the company to significantly alter its systems to allow routing on a per cell site (or group of cell sites) basis. This would be a complex, labor-intensive undertaking, entailing much more than simply "reprogramming switch software" as contemplated by the Federal Communications Commission (FCC)[5] (AWS Application for Rehearing at 2-4).

(12) Noting that similar issues concerning the practicality of wireless carriers providing 2-1-1 dialing arrangements are currently before the FCC, AWS urges the Commission to grant rehearing for the purpose of holding in abeyance the applicability of the Order to CMRS providers in Ohio, pending the outcome of the FCC's decision on the petition for reconsideration filed on March 12, 2001, by Verizon Wireless.[6] If, however, the Commission determines on rehearing that CMRS providers must participate in 2-1-1 dialing in the state of Ohio, AWS proposes that the Commission should either: (1) clarify that CMRS providers may direct 2-1-1 calls to a statewide toll-free number or, in the alternative, to one county call center for the entire state. AWS proposes that OCIRP/2-1-1 Ohio should coordinate the manner in which to

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5 At Finding 23 of the Order, we had indicated the concerns of CMRS providers regarding 2-1-1 implementation were apparently "rendered moot by the FCC's directive [as set forth at paragraph 21 of the FCC's Third Report and Order] … that when a provider of telecommunications services (which would include a wireless carrier) receives a request for the use of the 2-1-1 dialing code for the FCC-authorized purpose, it must 'take any steps necessary (such as reprogramming switch software) to complete 2-1-1 calls from its subscribers to the requesting entity in its service area.'"

6 See: Petition for Reconsideration of the FCC's July 31, 2000 *Third Report and Order and Order on Reconsider*, (CCDocket no. 92-105, FCC 00-256, Released July 31, 2000) ("*Third Reportand Order*").

route these calls to the appropriate county call center. This arrangement would enable CMRS providers to route 2-1-1 traffic on a per switch basis, rather than on a per-call basis, a methodology that AWS calls "logical" because, according to AWS, the "system coordinator" will be in the best position: (1) to determine which call center to route calls to, and (2) to track changes in both the number of active call centers and the geographic and jurisdictional range of each call center and its participating agencies (*Id*. at 4-6).

(13) On August 2, 2001, OCIRP/2-1-1 Ohio filed a memorandum contra AWS' application for rehearing. OCIRP/2-1-1 Ohio states that it "recognizes that the 2-1-1 implementation requirements prescribed by … [the Order] may be problematic for wireless carriers." Accordingly, OCIRP/2-1-1 Ohio "does not oppose a stay of these requirements as they relate to CMRS' providers" (OCIRP/2-1-1 Ohio Memorandum Contra at 2). However, OCIRP/2-1-1 Ohio does oppose the suggested remedy proposed by AWS which calls for the establishment of a statewide toll-free number, or the designation of one county call center, to which CMRS providers would direct all 2-1-1 calls. In OCIRP/2-1-1 Ohio's view, there are many unanswered questions associated with this proposal, including who would bear the associated costs. OCIRP/2-1-1 Ohio admits that, to date, its focus has been on the establishment of 2-1-1 service by wireline providers. It says that, although it "looks forward to participating in the development of 2-1-1 implementation requirements appropriate to wireline carriers, no such requirements should be adopted without first providing all interested parties the opportunity to be heard" (*Id*. at 2-3).

(14) On October 10, 2001, AWS filed an additional pleading, which it entitled a "motion to reopen", by which it requests the Commission to convene a workshop to address the issues raised by AWS' application for rehearing. In support of its motion, AWS submits that a workshop to address the limited subject of CMRS participation in the 2-1-1 program is a reasonable measure to ensure that the implementation of Ohio's county-specific 2-1-1 programs occurs in a quick and cost-effective manner. According to AWS "the fact that the issue raised by AWS on rehearing is not the subject of intractable differences among the parties indicates that an additional workshop will likely prove effective in reaching

consensus on CMRS participation in 2-1-1 programs" (AWS' Motion to Reopen at 3).

(15) Upon review of all of the pleadings, the Commission finds that AWS' application for rehearing should be granted for the limited purpose of holding in abeyance the applicability of the Order to CMRS providers in Ohio, pending the outcome of the FCC's decision on the petition for reconsideration filed on March 12, 2001, by Verizon Wireless. In all other respects, except as elsewhere noted in this entry on rehearing, the Order shall remain in full force and effect.

We find that the technical and operational issues which AWS has described in its rehearing application are by no means Ohio-specific, but rather are issues faced by CMRS providers generally, that would, most likely, be best addressed by a uniform national policy. Therefore, we think it would be prudent to wait and see how the FCC addresses the technical and operational issues uniquely faced by CMRS providers as regards implementation of N-1-1 services, generally, including 2-1-1, rather than to proceed, at this time, with any attempt to fashion an Ohio-specific resolution of these same issues. Therefore, we decline at this time to convene a workshop, such as the one requested by AWS in its motion to reopen, to address the unique technical and operational issues that must be faced before 2-1-1 service (and perhaps other N-1-1 dialing arrangements such as 3-1-1 and 5-1-1) can be implemented by CMRS providers in Ohio. Having said that, we specifically reserve the right to reexamine the need for any such workshop in the future, such as, for example, following the FCC's decision.

It is, therefore,

ORDERED, That, in accordance with the above findings, the joint CLECs' application for rehearing in this matter is denied. It is, further,

ORDERED, That, in accordance with the above findings, AWS's application for rehearing is granted for the limited purpose of holding in abeyance, pending the outcome of the FCC's decision on the petition for reconsideration filed in on March 12, 2001, by Verizon Wireless, the applicability to CMRS providers in Ohio of our June 21, 2001 Finding and Order in this matter. It is, further,

ORDERED, That, in accordance with the above findings, AWS' motion to reopen is denied and that, in all other respects, except as noted in this entry on rehearing, our June 21, 2001 Finding and Order in this matter, shall remain in full force and effect. It is, further,

ORDERED, That a copy of this entry be served upon the joint CLECs and their counsel, AWS and its counsel, OCIRP/2-1-1 Ohio and its counsel, Ameritech and its counsel, Sprint and its counsel, Verizon and its counsel, upon all CMRS providers in the state of Ohio, and upon all parties of record in this matter.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman

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